



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 31, 1993

Mr. George A. Staples, Jr.
Law office of Staples & Hampton
701 Texas Commerce Bank Building
860 Airport Freeway West
Hurst, Texas 76054

OR93-769

Dear Mr. Staples:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22773.

The City of Hurst Police Department² (the "department") received an open records request which you interpret as being for copies of every traffic citation issued by the city within a day of their issuance.³ We note at the outset that the Open Records Act pertains only to records that have been "collected, assembled, or maintained" by or for a govern-

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²You also inform us that the city's municipal court has received a similar request. The Open Records Act neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). Although Open Records Decision No. 274 (1981) held that municipal courts are not subject to the Open Records Act, traffic citations held by a municipal court were nevertheless public information under other laws giving municipal court clerks the same duties as county clerks. You contend that Open Records Decision No. 274 "seem[s] to be confused about the difference between a county clerk and a clerk of a county court exercising criminal jurisdiction" and ask that we reconsider that ruling. After reviewing Open Records Decision No. 274, we conclude that it accurately reflects the municipal court clerk's duties. Consequently, we decline to reconsider that ruling at this time.

³We note that section 552.228 of the Government Code requires that copies of records be made available to the public "within a reasonable time after the date on which the copy is requested." This office lacks the necessary fact-finding capability to determine whether access to the requested citations the day after they are issued is reasonable under section 552.228.

mental body. See Gov't Code § 552.021. The act does not require a governmental body to comply with a standing request for information to be collected or prepared in the future. See Attorney General Opinion JM-48 (1983). Consequently, the current request is not valid to the extent that it asks for any future citations to be issued.

You contend that the citations come under the protection of sections 552.103 and 552.108 of the Government Code. Section 552.103(a) excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation. Open Records Decision Nos. 588 (1991); 452 (1986). It is apparent to this office that any recently issued traffic citation "relates" to litigation of a criminal nature until such time as the fine is paid. We note, however, that absent special circumstances, once information has been obtained by all parties to the litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). Because individuals who allegedly violate traffic laws receive a copy of their citation, there is now no justification for withholding such information from the requestor pursuant to section 552.103(a).

You also contend that the citations come under the protection of section 552.108 of the Government Code because "they are records of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of a crime." Whether this exception applies to particular records depends on whether their release would "unduly interfere" with law enforcement or prosecution. Open Records Decision Nos. 434 (1986); 287 (1981). One of the purposes of the exception is to protect law enforcement and crime prevention efforts by preventing suspects and criminals from using records in evading detection and capture. See Open Records Decision Nos. 133, 127 (1976).

In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the court of civil appeals established the guidelines on what constitutes public information contained in police files. The court's holding was summarized in Open Records Decision No. 127, a review of which indicates that the front page of offense reports is public information. The information at issue here does not differ

substantially from that which was held to be public in *Houston Chronicle*. Cf. Open Records Decision No. 394 (1983) (radio logs and radio cards that are no different from the type of information held disclosable in *Chronicle* must be disclosed). You have not demonstrated how the release of this type of information to the general public would unduly interfere with the prosecution of this type of case, especially where the same information has been previously released to the alleged violator. Consequently, the department must release the traffic citations to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Open Government Section

RG/RWP/rho

Ref.: ID# 22773

Enclosures: Submitted documents

cc: Mr. Tim Rusk
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(w/o enclosures)